

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

DONALD ROBERTS
Claimant

VS.

QUALITY ELECTRIC, INC.
Respondent

AND

FEDERATED MUTUAL INSURANCE COMPANY
Insurance Carrier

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Docket No. 214,442

ORDER

The respondent and its insurance carrier requested review of the preliminary hearing Order dated August 29, 1996, entered by Administrative Law Judge John D. Clark.

ISSUES

The Administrative Law Judge appointed Pedro Murati, M.D., as the authorized treating physician. The respondent and its insurance carrier contend the Administrative Law Judge exceeded his authority by appointing Dr. Murati and denying respondent an opportunity to submit the names of three physicians as contemplated by K.S.A. 44-510(c). That is the only issue on this review.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire file, for purposes of preliminary hearing, the Appeals Board finds as follows:

The preliminary hearing Order entered by the Administrative Law Judge should be affirmed.

The respondent and its insurance carrier contend that they were providing claimant with medical treatment and, therefore, claimant's request for an authorized medical provider should be treated as a request for change of physician under K.S.A. 44-510(c). The Appeals Board disagrees. One of the questions before the Administrative Law Judge was whether respondent was providing claimant medical treatment. The Administrative Law Judge acted within his authority and jurisdiction in determining that respondent was not providing medical treatment and, thus, appointed an authorized treating physician. Respondent is correct in its analysis that the Administrative Law Judge should have given it an opportunity to submit the names of three physicians if this were a "change of physician" situation. However, the Appeals Board finds that claimant was not requesting a change of physicians. Therefore, K.S.A. 44-510(c) is not applicable. There appears no reason to disturb the Administrative Law Judge's Order.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated August 29, 1996, entered by Administrative Law Judge John D. Clark should be affirmed.

IT IS SO ORDERED.

Dated this ____ day of November 1996.

BOARD MEMBER

c: Robert R. Lee, Wichita, KS
Vincent A. Burnett, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director